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8 **UNITED STATES DISTRICT COURT**

9 **DISTRICT OF NEVADA**

10 JAMES MODICO, an individual,

11 Plaintiff,
vs.

12 SOUTHERN NEVADA HEALTH DISTRICT, a
13 political subdivision of the State of Nevada,

14 Defendant.

Case No.: 2:23-cv-02027-RFB-MDC

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16 **STIPULATION AND [PROPOSED]
17 ORDER TO EXTEND DISCOVERY
18 (FIRST REQUEST)**

19 Pursuant to Local Rules IA 6-1 and 26-3, IT IS HEREBY STIPULATED AND
20 AGREED by and among James Modico (“Plaintiff”) and Southern Nevada Health District
21 (“Defendant”) that the current discovery deadlines be extended in the above referenced matter.
22 This is the first stipulation to extend discovery deadlines.

23 **I. BACKGROUND**

24 This is an employment discrimination case. Plaintiff James Modico alleges he was
25 subjected to discrimination based on disability in violation of the Americans with Disabilities
26 Act and Nevada law with respect to his employment for Defendant.

27 Based on the foregoing, Plaintiff alleges claims for: (1) wrongful termination under the
28 ADA; (2) retaliation under the ADA; and (3) “violation of Nevada statutory protections” under
NRS 613.330.

Plaintiff filed a complaint on December 7, 2023 (ECF No. 1). Defendant filed its motion

1 to dismiss on January 23, 2024 (ECF No. 8). Plaintiff indicated that he intended to file an
 2 amended complaint. (ECF No. 16). After Plaintiff filed his First Amended Complaint,
 3 Defendant filed another Motion to Dismiss on March 8, 2024. (ECF No. 20). The Court set a
 4 hearing for June 6, 2021. (*See* Minute Order, ECF No. 24).

5 **II. DISCOVERY COMPLETED TO DATE**

6 On February 8, 2024, SNHD produced its initial disclosures. Plaintiff produced his
 7 initial disclosures on March 29, 2024.

8 On May 3, 2024, SNHD notice a deposition for Dr. Agapito Racoma to occur on June
 9 10, 2024. Plaintiff produced a supplemental disclosure on May 8, 2024, which included a
 10 medical authorization for release of records from Veterans Affairs. On May 10, 2024, SNDH
 11 issued a subpoena for records upon the Department of Veterans Affairs, Southern Nevada
 12 Healthcare System for Plaintiff's health and medical records. SNHD awaits receipt of such
 13 medical records.

14 **III. DISCOVERY THAT REMAINS TO BE COMPLETED**

15 The parties will supplement their FRCP 16.1 disclosures as necessary and appropriate,
 16 as additional information and documentation are made available in the course of discovery.
 17 Specifically, the parties intend to obtain and produce Plaintiff's medical records and any
 18 evidence related to injuries or damages.

19 Prior to disclosing expert reports, the parties anticipate that several depositions will be
 20 taken, including, but not limited to, Plaintiff, his medical provider(s), and percipient witnesses
 21 of Defendant related to the underlying allegations, as well as any Rule 30(b)(6) witnesses on
 22 behalf of Defendant.

23 The parties need to designate initial experts and exchange reports after depositions are
 24 taken. The parties will then need to conduct the depositions of each other's experts. The parties
 25 intend to serve written discovery requests on each other as needed.

26 **IV. REASONS FOR NOT COMPLETING DISCOVERY**

27 Defendant has requested and Plaintiff has acceded to this extension to allow written
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1 discovery and depositions to take place prior to the initial expert disclosure deadline. This
2 discovery extension is requested based on delays associated with present procedural uncertainty
3 and the need for discovery prior to initial expert designations and reports. A substantive motion
4 to dismiss has been filed by Defendant, and an order of this Court with respect to the same will
5 not occur prior to the current deadline for initial expert disclosures. Moreover, the Early Neutral
6 Evaluation in this case was unusually late, as it did not occur until May 10, 2024 which could
7 result in settlement, but the parties were ultimately unable to reach a resolution.

8 The parties are working to complete discovery within the time period set forth in the
9 initial scheduling order, and this is the first request for extension of discovery deadlines.
10 However, good cause exists to extend the deadlines. The parties agree that the current discovery
11 deadlines provide insufficient time to complete the remaining discovery and would impose
12 undue time and economic burdens on all parties, particularly given the imminent initial expert
13 disclosure deadline. For example, under the current deadlines, initial expert disclosures would
14 need to be made before the parties are aware of which claims, if any, will be proceeding herein,
15 and before Defendant will have filed an answer the First Amended Complaint. Such disclosures
16 would need to be served before all party depositions have been completed, which would result
17 in unnecessary supplemental reports, increasing costs to the parties to obtain rush or rough draft
18 deposition transcripts for their experts to review. The initial expert deadline needs to be extended
19 to allow the parties the opportunity to know which experts are even necessary, after which time,
20 the experts will need time to review documents in the preparation of their reports and to render
21 their opinions after receiving the remaining discovery. Accordingly, additional time is needed to
22 conduct the requisite discovery, investigation, and preparation to ensure that his matter is
23 properly adjudicated on the merits.

24 **V. PROPOSED MODIFICATION**

25 Based on the foregoing, the parties jointly see a modification of the current deadlines as
26 follows:

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1 1. Current Deadlines:

2 Amend the pleading and add parties April 23, 2024 (Passed)
3 Initial expert disclosures May 23, 2024
4 Rebuttal expert disclosures June 24, 2024
5 Discovery cut-off date July 22, 2024
6 Dispositive motions August 21, 2024
7 Proposed joint pretrial order September 20, 2024

8 2. Proposed Deadlines:

9 Initial expert disclosures July 22, 2024
10 Rebuttal expert disclosures August 23, 2024
11 Fact discovery cut-off date September 20, 2024
12 Dispositive motions October 21, 2024¹
13 Proposed joint pretrial order November 19, 2024

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27 ¹ Deadline falls on Sunday, October 20, 2024

1 This request is made in good faith and not for the purposes of delay.

2 **IT IS SO STIPULATED.**

3 DATED this 16th day of May 2024

4 HATFIELD & ASSOCIATES, LTD.

5 */s/Trevor J. Hatfield*

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9 James Modico

DATED this 16th day of May 2024

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10 **ORDER**

11 **IT IS SO ORDERED.**

12 Hon. Maximiliano D. Couvillier III
13 UNITED STATES MAGISTRATE JUDGE
14 DATED: 5/17/2024

